

REMARKS

Information Disclosure Statement

The Examiner states that the discussion of references in the text of the specification is not a proper information disclosure statement. The Applicant notes, however, that the Examiner has listed the U.S. Patents that are discussed in the specification in the "Notice of References Cited." Therefore, to avoid unnecessary duplication, the Applicant does not list these same references in the Information Disclosure Statement filed herewith.

As a separate matter, Applicant respectfully draws the Examiner's attention to reference "L" cited by the Examiner on form PTO 892. This reference, US2006/0179561 to Ribeiro, is the Pre-Grant Publication of the self-same application under examination, and of course is not "prior art."

The Examiner also states that the Information Disclosure Statement of September 15, 2005 fails to comply with 37 C.F.R. § 1.98(a)(2) for failure to include a legible copy of the foreign patent reference that was cited. As stated on the first page of this Response, the Applicant submits herewith a copy of German patent DE 1264031 B, an English translation thereof, a transmittal letter and a Form PTO/SB/08a that again cites this reference.

Substitute Specification under 37 C.F.R. § 1.125

The Examiner objects to the specification as originally filed, stating that it is replete with errors. In response, the Applicant submits herewith a substitute specification and a marked up version of the original specification showing changes, in accordance with 37 C.F.R. § 1.125(a). References to the drawings have been corrected, and English usage is improved. The Applicant states that the substitute specification does not contain new matter.

Replacement Drawings

The Examiner objects to the drawings as originally filed, saying that the figure and reference numbers in the drawings do not correspond with the figure and reference numbers in the specification, and that figures 1-5 depict the prior art but do not bear the legend "Prior Art." The aforesaid substitute specification corrects the reference numbers to correspond with those in the drawings. In compliance with M.P.E.P. § 608.02(g), 37 C.F.R. § 1.121(d) and 37 C.F.R. § 1.84(c), Applicant submits replacement drawings for figures 1-5 with this Response, each sheet being labeled "Replacement Sheet" and each figure bearing the legend "Prior Art." The Applicant hereby states that the replacement drawings do not contain new matter.

Cancellation of Claims and Addition of New Claims

Claims 1-18 are hereby canceled without prejudice, and claims 19-27 are added.

ARGUMENTS

Rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a)

The Examiner rejects claims 1-18 as either anticipated by US Patent 2,490,272 to Kasclé (hereinafter "Kasclé") or made obvious in light of Kasclé alone or in combination with US

Patent 4,177,614 to Arp (hereinafter “Arp”). As mentioned above, Applicant has canceled the rejected claims. The newly added claims are not anticipated by either Kasle or Arp and are not obvious in view of a combination of the two references for at least the following reasons:

Claim 19 recites:

A modular pool, comprising one or more superposed tiers of modular metallic panels adjacently interconnected so as to form side walls, said modular panels comprising a central vertical rectangular portion with flanges along its horizontal and vertical edges, wherein the flanges along the upper and lower sides of said rectangular portion are at right angles to said rectangular portion such that the bottom flanges of the modular panels of the lower tier are attached by semi-permanent attaching means to a **latticed base structure comprising a plurality of metallic sleepers placed crosswise at right angles to a plurality of parallel lengthwise metallic beams, said metallic sleepers and said beams being “U” section shaped with the central portion being vertically oriented.** [Emphasis added.]

Neither Kasle nor Arp disclose or contemplate a **“latticed base structure comprising a plurality of metallic sleepers placed crosswise at right angles to a plurality of parallel lengthwise metallic beams, said metallic sleepers and said beams being “U” section shaped with the central portion being vertically oriented.”** In rejecting claims 4, 5, 6 and 17, which were directed to the support structure of the pool, the Examiner points to items 47, 48, and 49 of fig. 2 of Kasle. These “stiffening ribs,” as they are referred to in Kasle at col. 3, lines 37-39 are not in a **“latticed base structure.”** The ribs appear to be oriented parallel to one another, with no ribs placed **“crosswise at right angles”** to other ribs. Further, it is not disclosed that some of the ribs are **“metallic sleepers”** while others are **“metallic beams.”** Moving to the other reference, Arp discloses only a pool wall and is not concerned with a base structure of any kind. Therefore, Arp does not anticipate claim 19 nor does it, in combination with Kasle, render claim 19 obvious.

Claims 20-27 – These claims depend from and thus incorporate the limitations of, and add additional limitations to, claim 19. Therefore, the above argument regarding the patentability of claim 19 applies equally to claims 20-27.

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CONCLUSION

Applicant believes that the claims as shown in the present Listing of the Claims are each patentable in view of the prior art and further believes that this is a complete response to the Office Action of April 4, 2008. Prompt notice of allowance is respectfully requested. If there are any questions, the Examiner is invited to phone Applicant's undersigned attorney.

Respectfully submitted:

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